

Lawrence McCormack
Corporation Counsel
City of Kokomo
City Hall – 100 south Union Street
Kokomo, Indiana 46901

Re: Kokomo Dump Site (SF ID: C564)
City's April 13, 2012 Response to General Notice Letter

Dear Mr. McCormack:

Thank you for your letter dated April 13, 2012, responding to the General Notice U.S. EPA sent the City of Kokomo (the City) on April 5, 2012, providing the City with an opportunity to perform or fund a removal action at the Kokomo Dump Site. Your April 13, 2012 letter on behalf of the City qualified the City's willingness to participate in the performance or financing of the activities described in the General Notice letter on sufficient participation by other potentially responsible parties and reaching an agreement on the terms of an Administrative Order on Consent (AOC) and said it could not make an informed decision until advised of the amounts of both past and estimated future costs and share of liability assumed by other PRPs. This correspondence provides additional information on and a demand for costs, and a draft AOC for review.

As discussed in our April 5, 2012 letter, U.S. EPA has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Kokomo Dump site at 1130 South Dixon Road, Kokomo, Howard County, Indiana (the Site) and is planning to spend public funds to control and investigate these releases. The City owns and used to operate a municipal landfill at the Site.

Under CERCLA, specifically Sections 106(a) and 107(a), Potentially Responsible Parties ("PRPs") may be required to perform cleanup actions to protect the public health, welfare or the environment. Under Section 107(a) of CERCLA, PRPs may be held liable for all costs incurred by EPA (including interest) in responding to any release or threatened release of hazardous substances at the Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPS include current and former owners and operators of the Site, as well as persons who arranged for treatment/and/or disposal of any hazardous substance found at the Site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Response costs associated with this Site have been incurred by EPA. The approximate EPA response costs identified up to , 2012 for the above referenced Site are \$. A summary is enclosed.

Information available to EPA indicates among other things that you are potentially responsible for the release, or threat of release, of hazardous substances from the Site. Pursuant to the provisions of Section 107(a) of CERCLA, and based on evidence currently available to the Agency, EPA believes that you may be liable for the payment of all costs incurred by EPA in connection with the Site. PRPs are jointly and severally liable for the whole amount. Partial payments will not release the payor of liability for payment of the rest of the costs that are owed to EPA. Limiting language on the check or in accompanying letters will be considered to be advisory only and will not be considered as placing conditions on the amount paid or as limiting liability on other costs demanded in this letter.

Such payment must be made by a cashier's or certified check made payable to the "U.S. EPA Hazardous Substance Superfund", which is established by the Internal Revenue Code, 26 U.S.C. § 9507, and administered by EPA. Please send your check to U.S. EPA, Superfund Payments, Cincinnati Finance Center, P.O. Box 979076, St. Louis, Missouri, 63197-9000. Place the following Site Identification Number on the check: (**SSID B5SZ#**). Please send a copy of your payment check to Thomas Marks, Chief, Enforcement Services Section 1 (SE-5J), U.S. EPA, Region 5, Superfund Division, 77 West Jackson Boulevard, Chicago, Illinois 60604, and to the Office of Regional Counsel (C-14J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

We hereby demand that you make restitution by payment of the amount in this letter expended by the Agency in connection with the Site pursuant to authority of CERCLA, as amended. Pursuant to Section 107(a) of CERCLA, as amended, interest shall begin accruing as of the date of this demand, if payment is not received within thirty (30) calendar days of the date of this letter.

We have not identified other PRPs. In addition to the cost summary, I am enclosing a draft AOC, and the August 13, 2012 Action Memorandum for the Site, which, among other things, discusses the release or threatened release of hazardous substances from the Site and includes some preliminary projections of costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring the City to perform specified work. Under Sections 106 and 107 of CERCLA, the City may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order.

Because of the conditions described in the Action Memorandum, EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

If you desire to discuss your liability with EPA, please contact Maria Gonzalez, Associate Regional Counsel, in writing no later than thirty (30) calendar days after the date of this letter. Maria Gonzalez may also be reached by phone at 312-886-6630. If we do not receive a response from you within this time frame, EPA will assume that you have declined to reimburse the Fund for the Site expenditures, and pursuant to CERCLA, EPA may pursue civil litigation against you to recover all of its costs, with interest.

EPA considers the City jointly and severally liable for the amounts demanded in this letter until all costs are reimbursed or an appropriate settlement is achieved pursuant to Section 122(h) of CERCLA.

Sincerely,

Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch

Enclosures: *Itemized Cost Summary*
Draft AOC
August 13, 2012 Action Memorandum

